

**REMARKS**

**I. Status of the claims**

Claims 25-65 and 67-73 are pending in this application. Claims 60 and 67 are being amended in this response. Claim 60 has been amended to be consistent with the scope of the claim from which it depends. Claim 67 has been amended to depend from claim 59. Support for both amendments can be found in the specification at p. 4, lines 13-17. Accordingly, no issue of new matter is being raised. Applicant acknowledges the allowance of claims 25-58, 61-65, 68, 69, and 71-73.

**II. Rejections under 35 U.S.C. § 102**

The Office rejected claims 59 and 70 under 35 U.S.C. 102(b) as allegedly being anticipated by German Patent Application No. DE 44 41 167 (*Luck I*). The Office also rejected claims 59 and 70 under 35 U.S.C. 102(b) as allegedly being anticipated by U.S. Patent Application Publication No. 2003/0143518 (*Luck II*). Applicants note that the *Luck I* and *Luck II* have similar disclosures. Furthermore, the same passages from *Luck I* on which the Office is relying in this rejection are also the exact same passages on which the Office is relying for the rejection over *Luck II*. Therefore, Applicants will address both rejections at the same time.

The Office argues that both *Luck I* and *Luck II* teach a method of drying plasma and that plasma contains a mixture of thrombin, fibrinogen, and factor XIII. The Office also argues that the methods of *Luck I* and *Luck II* comprise providing a solution of plasma, drying the plasma solution in a fluidized bed apparatus, and forming the flowable solid granules. The Office further argues that the granules produced by the

methods of *Luck I* and *Luck II* are 100-200  $\mu\text{m}$ . According to the Office, the methods of *Luck I* and *Luck II* contain all of the method steps and all of the limitations of the formulations recited in the rejected claims. Applicants respectfully traverse.

Contrary to the Office's statements, the blood plasma solutions of *Luck I* and *Luck II* do not contain thrombin. Thrombin catalyzes the conversion of fibrinogen into fibrin, which forms the non-soluble network of fibers that ultimately produce a blood clot. However, because the presence of thrombin will result in a blood clot, thrombin is not a regular component of blood, unless there has been a traumatic event that triggers its production. Upon such an event (a lesion on tissue or in a blood vessel, for example) thrombin is produced from prothrombin by cleavage of a particular peptide sequence from the sequence of thrombin. See, e.g., Mathews and van Holde, *Biochemistry* 397-399 (1990) (copy enclosed herewith). Therefore, the plasma of *Luck I* and *Luck II* does not contain thrombin.

For at least this reason, neither *Luck I* nor *Luck II* anticipate claims 59 or 70. Accordingly, Applicants respectfully request that this rejection be withdrawn.

### **III. Rejections under 35 U.S.C. § 112**

The Office rejected claim 67 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The Office argues that claim 67 depends from cancelled claim 66 and therefore is unclear as to the metes and bounds of the claim. Applicants have amended claim 67

to depend from claim 59. Accordingly, this rejection is now moot and Applicants respectfully request that this rejection be withdrawn.

#### **IV. Claim Objections**

The Office objected to claim 60 under 37 C.F.R. 1.75(c), as being of improper dependent form for failing to include every limitation of the claim from which it depends.

The Office argues that claim 60 depends from Claim 59, which is drawn to a product that contains a mixture of thrombin, fibrinogen, and factor XIII. The Office states that claim 60 recites that the mixture “consists of separately dried thrombin and fibrinogen granules”. According to the Office, due to the closed language “consists of”, the mixture of claim 60 does not contain factor XIII as is required in the mixture of claim 59, from which it depends.

Applicants amended claim 60 to be consistent with the scope of claim 59. Accordingly, this objection is now moot and Applicants respectfully request that this objection be withdrawn.

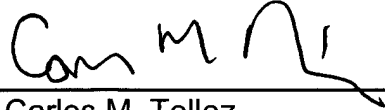
#### **V. Conclusions**

In view of the foregoing amendments and remarks, Applicants respectfully request reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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**Enclosure:** Mathews and van Holde, Biochemistry, 397-399 (1990) (5 pages)